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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,383	09/24/2001	Guenter Hahn	2000P18622 US	7489

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EXAMINER
MANTIS MERCADER, ELENI M

ART UNIT	PAPER NUMBER
3737	7

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/960,383	Applicant(s) HAHN, GUENTER	
	Examiner Eleni Mantis Mercader	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover she t with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/24/2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-43 of copending Application No. 10/287,359. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the conflicting claims are not identical, they are not patently distinct from each other because they represent alternate variations and groupings.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Babula et al.'914.

Regarding claims 1 and 2, Babula et al.'914 teach a medical apparatus with means for dealing with problems which, when a problem affecting the medical apparatus occurs, determine that (those) component(s) which is (are) the cause of the problem concerned and display it (them) on a display device and the means of which for dealing with problems obtain problem-specific data on the medical apparatus with respect to the problem determined and evaluate them with regard to the component(s) causing the problem concerned (col. 12, lines 66-67 and col. 13, lines 1-41).

Regarding claim 3, the medical apparatus contains a data memory in which information serving for determining data is stored and taken from the data memory by the means for dealing with the problem on a problem-dependent basis (see col. 6, lines 45-50).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Babula et al.'914.

Regarding claim 4, Babula et al.'914 teach a system wherein description on how to correct the problem with respect to the medical apparatus is provided (see Figure 10). It would have been obvious to one skilled in the art at the time that the invention was made that according to the particular system certain components to be replaced could be performed by the operator instead of a service man. So, if an MRI surface coil is malfunctioning and the system displays such, the operator could in fact utilize an alternative surface coil and hence not require service repair at that particular timeframe.

With respect to claims 5 and 8-10, it would have been obvious to a skilled artisan at the time that the invention was made that whether for use by a service man or by an operator, the components of expensive diagnostic equipment would be specifically labeled in order to avoid possible destruction by possible misuse and for the same reason it would have been obvious to one skilled in the art to run a test to determine that the component functions appropriately in order to avoid destruction to the rest of the system.

Regarding claims 6 and 11, the medical apparatus contains a data memory in which information serving for determining data is stored and taken from the data memory by the means for dealing with the problem on a problem-dependent basis (see col. 6, lines 45-50).

Regarding claim 7, Babula et al.'914 teach dealing with problems ordering the component to be exchanged via telecommunication means (see col. 9, lines 5-13).

Regarding claim 12, Babula et al.'914 teach the apparatus being assigned a data memory in which at least partially graphic information concerning the exchange of components which can be presented on a display unit of the apparatus is stored (see col. 16, lines 1-13 and see Figure 11).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Steele et al.'639 teach an x-ray inspection system.

Pflugrath et al.'323 teach an ultrasonic diagnostic system with upgradeable transducer probes and other features.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is 703 308-0899. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703 308-3256. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-3590 for regular communications and 703 308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0858.

Eleni Mantis Mercader
Examiner
Art Unit 3737

EMM
August 9, 2003